

(56)

12-11-01

Sc

U.S. Dist CourtM.D. of Penna.FILED
HARRISBURG

DEC 10 2001

MARY E. D'ANDREA, CLERK

Per

DEPUTY CLERK

1 C.V. 00-1728

Judge Rambo

Branch
v PlaintiffRussian
DefendantSupport of MotionTo Reconsider Dismissal

IF it Please is The COURT HERE comes up Branch
To answer MR Gold and to support my case.

1. Mr Gold continues tautology has lead the court down one path then another. but he has yet to offer this court a signed statement by Mr Hefferman on my complaint!

why? it would clear everything up.

Exhaustion 42 USC A 1997e(A) does not apply to claims of Particular instances of excessive force directed at Prisoners or individualized Retaliation against prisoners

503 US 1, 9, 112 Sct. 995 117 LEd 2d also see

Lawrence 238 F3d 186 (2 Cir. 2001)

Conspiracy, a agreement by two or more people to committ a act in this case this was done to cause harm
Deliberate indifference a act done knowing it will hurt someone and not care

falsifying Documents writing a prescription without proper authority

Retaliation this all was done because I report staff for misconduct and my accessing the courts

Please find Exhibit AA-8 inclosed I will not be serving this on all party's as I am running out of money and I have more Exhibits to file with the court.

I never pleaded to the court improper medical care or a 8th amendment How did we get down this path

I plead: Retaliation for Reporting misconducts by 90 Russian and conspiracy with Mr Friedman Unit manager along with other staff. false charges to put me in R+U taking legal work to hinder my access to court falsifying official Documents, intimidation conspiracy to force me to withdrawal of Pending lawsuits Violation of Constital Rights

if the court dismissed Mr Hefferman for medical 8th ment it has Broken the law. Mr Hefferman can be charged as a person acting under color of Law falsifying Documents and as a conspirator with staff to ~~Retall~~ Retaliate against that's what I plead. the court can not prejudice my case by entering judgement on issue's not before it taulology. I Respectfully ask this Hon. Court to Reinstate Mr Hefferman as a defendant

Date 12-2-01

Respectfully

William Branch
PO Box 256
Waymart Pa. 184

PROOF OF SERVICE

I, the undersigned, verify that I have served a copy of this petition by U.S. postage paid mail to:

*US Justice Dept
Washington D.C.
20531*

*US Dist Court
P.O. Box 983
Harrisburg Pa
17108*

*Ms Moley State
Attorney General Deputy
Strawberry Sq
Harrisburg Pa 17120*

MOTION TO PROCEED IN FORMA PAUPERIS

I, the undersigned, move this Honorable Court for an order permitting me to proceed In Forma Pauperis. I had previously been granted In Forma Pauperis status. My financial situation has not changed. I am still unable to pay the cost of the said proceedings.

VERIFICATION

I, the undersigned, verify that the above statements are true and correct and that any false statements herein are made subject to Title 18 Pa.C.S.A. section 4904 relating to unsworn falsification to authorities.

Respectfully submitted,

Dated: 12-3-01

WM Branch CF3756

S.C.I. Waymart
P.O. Box 256
Waymart, PA 18472-0256

FORM **DC-141** **PART I** **COMMONWEALTH OF PENNSYLVANIA** **627233**
 Rev. 6-84 ☒ **MISCONDUCT REPORT** ☐ **OTHER** **DEPARTMENT OF CORRECTIONS**

DC Number **CF3756** Name **BRANCH** Institution **SCIWM** Incident Time 24 Hr. Base **1630** Incident Date **11-17-01** Date of Report **11-17-01**
 Quarters **F-2** Place of Incident **F-2 CUBE 1004** **Exhibit AA-8**

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number	Name	I	W	DC Number	Name	I	W
	COE Muir		X				

MISCONDUCT CHARGE OR OTHER ACTION **CLASS 1 CAT B #35 (Refusing To Obey An Order) CLASS 1**
#41 (Failure To Stand Count Or Interference With Count)

STAFF MEMBER'S VERSION **AT 1630 CONTROL MADE THE ANNOUNCEMENT TO CONDUCT COUNT. AT THIS TIME OFFICER Muir ORDERED THE BLOCK TO SIT UP ON THEIR BUNKS. WHEN COUNTING CUBE 1004 THIS OFFICER'S COUNT WAS INTERRUPTED BY STOPPING TO ORDER ILM BRANCH CF3756 TO SIT FOR COUNT, WHO WAS LYING ON HIS BUNK. HE REFUSED OFFICER Muir'S INITIAL ORDER TO SIT UP AND REFUSED ALL PREVIOUS ORDERS BY MYSELF ON 7-14-01, OFFICER ROSEN ON 10-24-01, OFFICER Pugliese ON 6-5-01, AND OFFICER SAWCHUCK ON 12-20-00 ALL HAVE BEEN DOCUMENTED ON HIS QUARTERS CARD**

This C/O is a defendant in my complaint the Prison allows him to remain the C/O on my Block he make's false entries on my quarters card gets others to do the same. the C/O before him counted me and said nothing

IMMEDIATE ACTION TAKEN AND REASON **CONTINUE PRESENT STATUS UNTIL SEEN BY HEARING EXAMINER.**

PRE-HEARING CONFINEMENT

(DUE TO SEVERITY OF MISCONDUCT)

☐ YES
☒ NO

TIME

DATE

☒ **REQUEST FOR WITNESSES AND REPRESENTATION**

☒ **INMATE'S VERSION**

REPORTING STAFF MEMBER SIGNATURE AND TITLE

ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY

SIGNATURE AND TITLE

DATE AND TIME INMATE GIVEN COPY

DATE

TIME 24 HOUR BA

YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER

DATE

TIME

Misconduct Category

☒ **CLASS 1** ☐ **CLASS 2**

Signature of Person Serving Notice

Douglas L Clark
COID/HCH

11-18-01

09:00

NOTICE TO INMATE

You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found

DC-141 PART II C
Rev. 6-84 HEARING SUPPLEMENT
INMATE VERSION AND WITNESS STATEMENTS

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PA
CF3756	BRANCH	SLUUM	6272

INMATE'S VERSION

Sir: I do not disobey any orders given to me by staff and I tell others to obey all orders given and to respect those who have charge over us. God tells all Christians to do this.

I was sitting up for count the C/O Muir came in the cube counted walked out ~~and~~ after he counted me sitting up. he passed C/O Kowarski in front of my cub C/O Muir ~~by~~ and three other inmates in Bed 6, 7, Right next to me.

I have spoken with Lt Vargas and Mr Mc Donnell about C/O Kowarski I have written Grievance about him Lt Vargas spoke with him. I do not have any problems with any other Block officer I really try very hard to stay out of trouble. I am seeing C/O Kowarski in federal court all this is Retaliation for accessing the Cor

Sir there are 365 days in a year I have been on this Block a year 4 counts a day 1,400 a year all to count and I sit for all of them

I know how important count is all of these entries are from 2 shift with C/O Kowarski tell his fellow C/O's to make these entry two of them were because I was sleep and one I was on the top Bunk and could not hang my feet down

I am fifty years old almost and I do fall asleep after I eat I have high Blood Pressure a slow heart and Diabetic I know I have to be clam stay away from Pressure situations so I have to agree and comply with all C/O's and staff.

I am only trying to do my time without any trouble and go home I do not hate C/O Kowarski I must love him and all people because they are made in God's image and help them God willing

DC-141

PART II A

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

INMATE REQUEST FOR
REPRESENTATION AND WITNESSES

DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	Date	Number as on P
CF 3756	BRANCH	SCIUM	11-17-01	117-01

You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☐ I do not request assistance
☐ I request assistance by _____
(The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give.

If Inmate

1. Name of Witness: No. Quarters

Limbeck Smiley DP5133 F2-1004
 Why is this person's testimony relevant and important? Cab 1004 Bed 7

I SAW branch sitting on
 his bunk at count time

DO NOT WRITE IN THIS SECTION

For Use by Hearing Examiner

Witness permitted? yes If not, why not?

Please note that
 each inmate wrote
 his statement

If Inmate

2. Name of Witness: No. Quarters

Percy Noble C0273 F2-1004 Bed #8
 Why is this person's testimony relevant and important?

I seen Branch up at count time sitting up on his
 bunk

Witness permitted? yes If not, why not?

If Inmate

3. Name of Witness: No. Quarters

JEFFREY BOND AS-2594 F-2/1004
 Why is this person's testimony relevant and important? Bed #6

Mr. Branch was up for count the same
 as he is always.

Witness permitted? yes If not, why not?

William Branch CF3756

Inmate's Signature

This section to be completed by Housing Officer only

Received completed form 0645 hours 11-19-01

Time

Date

Rubben Hill COT

Donald J. Jones

Hearing Examiner's Signature

DC-141

PART II B

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

DISCIPLINARY HEARING REPORT

DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	Hearing Date	Hearing Time	No. from Pa
73756	BRANCH	SCIWM	11-20-2001	1008	6272
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	

HEARING ACTION

CHARGES 35

41

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

Branch pleads not guilty of both charges, and does submit written version which is attached.

Inmate Maple testified under oath that he did see inmate Branch sitting on count on 11-17-2001 @ 1630 hrs. When ordered to sit for count inmate Branch sat all the way up.

Inmate Bond testified under oath corroborating the testimony of inmate Maple.

Inmate Smiley testified under oath that he saw inmate Branch sitting on the 1630 hr. count. I didn't hear any order.

H.E. does not believe any of the witnesses.

Examiner believes the officers report over the inmate's denial, and the witnesses testimony. C.O. Kawowski reports observing that inmate Branch was not sitting for the 1630 hr. count on 11-17-2001 as requested.

Inmate Branch was lying on his bunk at 1630 hrs. H.E. makes note that inmate Branch did fail to sit for count. Guilty of #41.

Sanction loss of job.

30 days cell restriction. Affected 11-20-2001. Dismiss #3.

YES	<input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen.
YES	<input type="checkbox"/> NO	The circumstances of the charge have been read and fully explained to the inmate.
YES	<input type="checkbox"/> NO	The opportunity to have the inmate's version reported as part of the record was given.
YES	<input type="checkbox"/> NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

Witness loan submitted.

SEE APPENDICES

Version of form submitted.

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

Hearing Report and all appended information must be signed: Signature indicated finished report with appendices.

FORM DC-141 PART II E

COMMONWEALTH OF PENNSYLVANIA

MISCONDUCT HEARING APPEAL

DEPARTMENT OF CORRECTIONS

DC Number

Name

Institution

CF 3756

William Branch

Sci Wayms

I was found guilty of misconduct # 627233 on 11-20-01 (date) by
Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:

Check Area(s) Involved

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree; ☒
- b. The punishment is disproportionate to the offense; ☒
- c. The evidence was insufficient to support the decision. ☒

Below is a brief statement of the facts relevant to my claim(s). It includes the identity of persons who may have information which may be helpful in resolving this matter.

I was charged with Disobeying a order not sitting for count that was dismissed misconduct # 35. then I must have been sitting for count Reason c/o muir called count he counted me first. c/o Koworski counted me after muir I never change my position.

Three inmates testified to this and c/o muir by his me and not saying I not sitting for count even if H. my witness incredible c/o muir counting me says I was for count

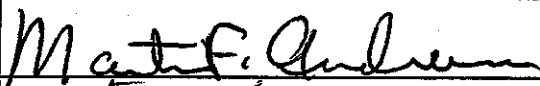
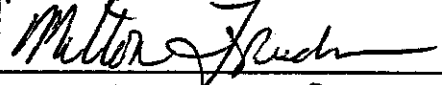
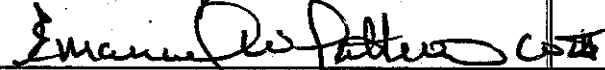
ser the evidence shifts to my favor. the quarters submitted that I was warned. All times c/o Koworski told the members to do this I was on a top Bunk sawchuck, he should have no Problem with Branch. I should not have been on a top Bunk have Bottom Bunk Status. c/o Regner I was sleep and another

I have explained to c/o Koworski I am not intentionally asleep but I am a old man and sometime after I eat I fall this time I was not asleep and I was sitting up I will agree with c/o Koworski I will say " ser I do not know why he like me so but I will make ever effort to sit sit with my feet on the floor

DC-141 PART III
PROGRAM REVIEW COMMITTEE ACTION
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
☐ Misconduct Appeal ☐ Periodic Review ☐ Other

DC Number CF-3756	Name Branch, William	Institution SCI-Waymart	Date of Review 11/21/01	No. from PART 1 627233
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Mr. Branch is appealing misconduct #627233 for Failure to Stand Count or Interference With Count on the grounds that the procedures used were contrary to law, Administrative Directive 801 or ICU Consequence Decree; the punishment was disproportionate to the offense and the evidence was insufficient to support the decision. In reviewing the misconduct, the Program Review Committee found that there was no violation of any department directive or law. In addition, the punishment was appropriate for the misconduct and that the evidence was sufficient to support the Hearing Examiner's decision. It should be noted his statement of facts relevant to this appeal provided no new information. The Program Review Committee sustains both the findings of the Hearing Examiner and the sanction.

Name of Program Review Committee Members	Signatures	Date
Deputy Martin Andrews		11-26
Wilt Friedman, Unit Manager		11/21/01
Lieutenant Emanuel Patterson		11-26

Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer) *#627233**Supt. Colbran*

2. Date:

11-27-01

3. By: (Print Inmate Name and Number)

Wm Branch CF3756

4. Counselor's Name

*Mr McDowell**William Branch*

Inmate Signature

5. Unit Manager's Name

Mr Chipago

6. Work Assignment

Unassigned

7. Housing Assignment

F-2

8. Subject: State your request completely but briefly. Give details.

*Sir I was given 30 days cell restriction for failing to sit for count.**One C/O counted me passed C/O Kowarski in front of my cube C/O Kowarski then said sit for count.**I was sitting for count by C/O Muir counting me and leaving I also had 3 inmates witness state that**I was sitting for count. C/O Kowarski is Retaliating**9. Response: (This Section for Staff Response Only)*
*against me for grievance's written on him by me with this verdict anyone he dislikes he can say sit for count and you get convicted no matter what witness you have. these inmates know what happen and how wrong this C/O is in the interest of justice please over turn this wrong.**Respectfully*To DC-14 CAR only ☐To DC-14 CAR and DC-15 IRS ☐

Staff Member Name

P.S. there was a little more but it forgot

Print

Sign

Date

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
SCI WAYMART

570-488-5811

November 28, 2001

SUBJECT: Appeal to Misconduct 627233

TO: William Branch
CF-3756

FROM: 
Raymond J. Colleran
Superintendent

I have reviewed your misconduct received in my office on November 28, 2001. After my review, I concur with the findings of the hearing examiner and the sanction imposed by him.

Your appeal at this level is denied.

RJC/fb

cc: PRC Members
DC-15

Dec. 2, 2001

WM Branch CF

Po Box 256

Waymart Pa 18

Final Review

Sec. office of inmate grievance

Misconduct #6272

Sir. I was written up for failer to sit for count one c/o counted me said nothing c/o Kowarski Right behind him counting said ~~Branch~~ Branch sit up, I was already siting up 3 inmates witness also affirmed this the witness statement is in their own hand write using a inmate as an example is not justic not is it Equal protection.

Evidence: 1 c/o said I was not siting, I have write him up and I am sueing him in federal court if he wrote me up he should have written everyone that he had to ask to sit for count at anytime this was personal

Evidence: 1 c/o counted found no need to say anything Three inmates witness written statement and oral allowed by hearing Examiner stated an affirmation to tell the truth, that I was siting for count.

I am no bodies leader I am trying to follow the Rules and I wish these People would do the same. Retaliation is a Violation of the Const. of the U.S.A

I Respectfully ask that you over rule the H.E.

I believe the above statement is true

James Hall